

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

DAWLIN CABRERA,)
)
Petitioner,)
)
v.) 1:11-cr-00205-JAW-4
)
)
UNITED STATES OF AMERICA,)
)
Respondent.)

**ORDER AFFIRMING THE RECOMMENDED DECISION
OF THE MAGISTRATE JUDGE**

On June 27, 2016, Dawlin Cabrera filed a motion to vacate his sentence pursuant to 28 U.S.C. § 2255. *Mot. for Reduction in Sentence per Auth. Of 28 U.S.C. [§] 2255, 2255(f)(3), and FR Crim P. 45(b)(1)(B)* (ECF No. 898). On June 30, 2016, the Magistrate Judge issued a recommended decision in which he concluded that Mr. Cabrera's petition was a second or successive petition and recommended that the Court transfer it to the Court of Appeals for the First Circuit for further disposition. *Recommended Decision* (ECF No. 900). On July 15, 2016, Mr. Cabrera objected to the Magistrate Judge's recommended decision. (ECF No. 901).

Having performed a de novo review of the petition, the recommended decision and Mr. Cabrera's objection pursuant to 28 U.S.C. § 636(b)(1)(B) and having made a de novo determination, the Court overrules Mr. Cabrera's objection to the recommended decision and AFFIRMS the Recommended Decision of the Magistrate Judge (ECF No. 900). The Court ORDERS (1) that the pending § 2255 petition be

transferred to the Court of Appeals for the First Circuit pursuant to 28 U.S.C. § 1631 and First Circuit Rule 22.1(e). The Court further recommends that the Court of Appeals DENY a certificate of appealability pursuant to Rule 11 of the Rules Governing Section 2255 Cases because there is no substantial showing of the denial of a constitutional right within the meaning of 28 U.S.C. § 2253(c)(2).

SO ORDERED.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
UNITED STATES DISTRICT JUDGE

Dated this 14th day of September, 2016